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10/597,010	04/20/2007	Alexander Schnell	003-239	4697
36844 68694/2016 CERMAK NAKAJIMA LLP 127 S. Peyton Street, Suite 210 ALEXANDRIA, VA 22314			EXAMINER	
			MEKHLIN, ELI 8	
ALEXANDRI	A, VA 22314		ART UNIT	PAPER NUMBER
			1795	
			NOTIFICATION DATE	DELIVERY MODE
			08/04/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Application No. Applicant(s) 10/597.010 SCHNELL ET AL. Office Action Summary Examiner Art Unit ELI S. MEKHLIN 1795 -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 12 July 2010. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1.2 and 5-11 is/are pending in the application. 4a) Of the above claim(s) _____ is/are withdrawn from consideration. 5) Claim(s) _____ is/are allowed. 6) Claim(s) 1.2 and 5-11 is/are rejected. 7) Claim(s) _____ is/are objected to. 8) Claim(s) _____ are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are; a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.

1) Notice of References Cited (PTO-892)

Paper No(s)/Mail Date

Notice of Draftsperson's Patent Drawing Review (PTO-948)

Information Disclosure Statement(s) (FTO/SB/08)

Attachment(s)

Interview Summary (PTO-413)
 Paper No(s)/Mail Date.

6) Other:

5) Notice of Informal Patent Application.

Page 2

Application/Control Number: 10/597,010

Art Unit: 1795

DETAILED ACTION

(1)

Applicant's Response filed July 12, 2010, has been entered. Claims 1, 2 and 5-11 are pending before the Office for review.

(2)

Response to Arguments

Applicant's arguments filed July 12, 2010 have been fully considered but they are not persuasive.

Applicant's first argument is that Budinger describes two distinct materials, not one material as alleged in the Office Action. Examiner would like to clarify that the Office Action never alleged that Budinger taught one material. Rather, Examiner took the position in the Office Action that the high-melt component of the bulk composition could, on its own, be considered a braze alloy because it is an alloy that is used in brazing. Specifically, Budinger teaches an alloy powder mixture for brazing that comprises two sets of alloy powders that are used to braze a material. However, a person having ordinary skill in the art at the time of invention would have appreciated that either component, when used individually, is also capable of acting as a brazing material. Applicant's argument does not dispute this point. Specifically, Applicant argues Budinger's choice of terminology but no where does Applicant present any argument or evidence indicating that the high-melt component in the bulk composition taught by Budinger cannot be used as an individual brazing alloy.

Art Unit: 1795

Applicant further points to Table I to indicate that Budinger's working examples do not overlap with the claimed invention, as asserted by Examiner in the Office Action. However, Budinger makes clear in Col. 11, Line 60 to Col. 12, Line 40 that the high-melt component of the bulk composition, which itself is capable of acting as a brazing material, overlaps with the ranges claimed by Applicant absent the presence of a melting point depressant. Specifically, Budinger discloses a composition that overlaps with or lies inside the ranges claimed by Applicant.

Additionally, Applicant argues that the Office Action tacitly acknowledges that Budinger does not teach the claimed relationships regarding Cr + Al > 15%, $Cr/Al \le 3$ and Al + Ta > 7.5%. However, Examiner did address these limitations in the previous Office Action. Specifically, Examiner stated that "[a]s per the MPEP, 'where the claimed ranges overlap or lie inside the ranges disclosed by the prior art, a *prima facie* case of obviousness exists.' MPEP 2144.05(l) (internal quotation omitted)." Specifically, Budinger teaches a braze alloy that overlaps with the ranges of the claimed invention, meaning the above criteria can be satisfied simply by using a braze alloy that is within the scope of Budinger's teachings.

Applicant further argues with respect to the above-specified criteria that Budinger is silent as to these criteria. Moreover, Applicant argues that the specific criteria lead to unexpected results. However, Applicant has not provided any evidence in support of this assertion. Specifically, Applicant asserts that the criteria leads to unexpected results but has not provided any evidence to indicate what exactly the unexpected results are.

Art Unit: 1795

Applicant argues Budinger's use of a high-melt alloy powder mixture teaches away from adding a melting point depressant to this mixture. Examiner disagrees with this assertion. Whether a material can be regarded as high-melt or lo—melt is a matter of degree. Furthermore, Budinger explicitly teaches that

[b]ecause the alloy mixtures of the present invention contain relatively low amounts of melting point depressants, the preferred brazing temperatures are significantly higher than for alloy powder mixtures in the prior art. Thus, the resulting brazed joint can be effectively used at temperatures that are much higher than for joints made with prior art multi-component brazing alloys, except when the use temperature is governed by other considerations, such as the capabilities of the articles being joined.

Col. 2, Lines 57-66. Accordingly, Budinger clearly establishes that the melting point of the high-melt and low-melt components of the bulk composition can be depressed as desired to account for the capabilities of the articles being joined. Therefore, a person having ordinary skill in the art at the time of invention would have appreciated that the temperature of the high-melt component could be lowered to account for a material that cannot withstand high brazing temperatures. Moreover, the purpose of Budinger's invention is not destroyed so long as one of the braze materials in the bulk composition is kept at a higher temperature than a second braze material in the bulk composition.

Finally, Applicant argues the remarks in the Response dated September 16, 2009, are applicable to the combination of Budinger and Schnell. However, these remarks were directed to Schnell in view Budinger, which is not the basis of the current rejection. Accordingly, these arguments have not been addressed. Examiner would like to note that the arguments above with respect to using a melting point depressant are equally applicable to the combination of Budinger in view of Schnell.

Page 5

Application/Control Number: 10/597,010

Art Unit: 1795

Therefore, for the reasons discussed above, the rejections are maintained.

(3)

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491).

With respect to **claim 1**, Budinger teaches a braze alloy that consists essentially of, by weight, 4 to 18.5 % Co, 4.5 to 14 % Cr, 3 to 6.2 % Al, 0 to 5 % Ti, 0 to 4 % Mb, 3.8 to 13.7 % Ta, 4 to 11 % W, 0 to 0.5 % Nb, 0 to 12 % Re, 0 to 1.55 % Hf, 0 to 0.3 % Y and boron and silicon as incidental impurities. Claim 1. When the composition does not contain titanium, molybdenum, niobium, rhenium or hafnium, the claimed composition overlaps with the ranges of the presently claimed braze alloy except for the presence of boron. As per the MPEP, "where the claimed ranges overlap or lie inside the ranges disclosed by the prior art, a *prima facie* case of obviousness exists." MPEP 2144.05(l) (internal quotation omitted).

Additionally, Budinger teaches that boron can be added to compositions as a melting point depressant. Col. 2, Lines 2-6. Specifically, Budinger teaches that the allow described above can be combined with a low melt alloy to provide brazing alloys that provide joints at temperatures significantly higher than joints made with prior art brazing alloys. Abstract. The low melt composition of the dual-alloy braze comprises 0

Art Unit: 1795

to $2.3\,\%$ boron, which overlaps with the claimed range. Claim 1. The dual-alloy braze has a bulk composition of 0 to 1 % boron. Claim 1.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to add boron to the high-melt component of the dual-alloy brazing alloy, as described above by Budinger, because Budinger teaches that boron can be used as a melting point depressant and a person having ordinary skill in the art at the time of invention would have appreciated that adding boron to the high-melt component of the bulk composition would allow for a bulk composition that has a melting point within a desired range, i.e. within the range used in the low-melt component.

Additionally, a person having ordinary skill in the art at the time of invention would have appreciated that Budinger establishes boron as a result effective variable that can be used to influence the melting point of a braze alloy. Specifically, Budinger teaches that the amount of boron in an alloy directly influences the melting point. Claim 1. This is clear from the fact that an alloy containing little boron is a high-melt alloy whereas an alloy containing up to 2.3 % boron is a low-melt alloy. Accordingly, as per the MPEP, "where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." MPEP 2144.05(II) (internal quotation omitted).

With respect to claim 2, Budinger teaches that the alloy, as described above, can be used to braze nickel-based articles and that the alloy can be particularly used to

Art Unit: 1795

braze single grain super alloy articles, which would be expected to be directionally solidified. Col. 1. Lines 37-42 and Col. 2. Lines 24-29.

With respect to claim 5, Budinger teaches that the nickel-based article can be a gas turbine component. Col. 1, Lines 11-14.

(4)

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491), as applied to claims 1, 2 and 5 above, and further in view of Stern (U.S. Patent No. 4,507,264).

With respect to **claim 6**, Budinger teaches a braze alloy with the required composition but is silent as to whether the braze alloy is in the form of a paste, foil, an ingredient in a blend braze paste, tape or pre-sintered sheet.

However, Stern, which deals with brazing methods, teaches a method of brazing that includes applying the braze alloy in a paste form to a super alloy joint, heating the joint to the brazing temperature in a vacuum furnace, followed by a post-braze heat treatment. Col. 6, Lines 1-8.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to use the braze alloy taught by Budinger in paste form because Stern teaches that a braze alloy paste can be effectively used to braze an article. Col.6 Lines 1-8.

With respect to **claim 10**, Stern teaches that the braze alloy, in paste form, is applied to a super-alloy article joint and the joint is heated to the brazing temperature in a vacuum furnace, followed by a post-braze heat treatment. Col. 6, Lines 1-8. Stern

Art Unit: 1795

does not state that the braze paste is mixed with any other additive. Additionally, Stern teaches that the braze temperature can be as high as 2150° C. Claim 3. Stern teaches that the braze alloy is particularly suitable for brazing nickel-based super-alloy articles. Col. 2, Line 1.

(5)

Claims 7, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491), as applied to claims 1, 2 and 5 above, and further in view of Stern (U.S. Patent No. 4,507,264) and Schaefer et al. (U.S. Patent No. 5,806,751).

With respect to **claim 7**, Budinger teaches a braze alloy meeting the compositional requirements of the claim but is silent as to the physical configuration of the alloy and whether it comprises a filler material.

However, Schaefer, which deals with methods of repairing gas turbine components, teaches that it is difficult to use a brazing alloy, absent a filler material, to braze large defects in gas turbine components. Col. 1, Lines 32-35. Schaefer teaches that it is known in the art to use metallic alloy filler with a braze alloy to affect the repair of large defects. Col. 1, Lines 42-43. The metallic alloy filler has a composition similar to the material the metallic alloy article that is being repaired, which in this case is a nickel or cobalt based super-alloy. Col. 2, Lines 20-21.

Additionally, with respect to the physical configuration of the braze alloy, Stern teaches that the braze alloy, when in paste form, can be effectively used to braze superalloy articles. Col. 6, Lines 1-8.

Art Unit: 1795

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to use a braze paste and combine it with a filler consisting of cobalt or nickel super-alloy because Schaefer teaches that metallic filler, with a composition substantially similar to the article to be brazed, can be combined with a braze alloy to form a braze product and that such a braze product can more effectively repair large defects in nickel or cobalt-based super-alloy articles. Additionally, Stern teaches that braze pastes can be effectively used to braze, i.e. repair super-alloy articles.

With respect to **claim 8**, Schaefer teaches that the braze alloy, the second metallic filler material, is between 0 to 40 wt% of the entire braze product. Col. 2, Lines 31-37. This range completely covers the claimed range of 0 to 30 wt%. Where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Woodruff*, 919 F.2d 1575 (Fed. Cir. 1990).

With respect to **claim 11**, Budinger, Stern and Schaefer, as combined above, teach that the braze product, which is a braze paste and a metallic filler wherein the metallic filler has the same composition of the article to be brazed, can be used to braze a nickel or cobalt-based super-alloy article, such as a gas turbine component.

Schaefer, Col. 1, Lines 11-42.

(6)

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491) Stern (U.S. Patent No. 4,507,264) and Schaefer et al.

Art Unit: 1795

(U.S. Patent No. 5,806,751), as applied to claims 7, 8 and 11 above, and further in view of Van Esch (U.S. Patent No. 6,575,349) and Rafferty (U.S. Patent No. 6,612,480).

With respect to **claim 9**, Budinger, Stern and Schaefer, as combined above, are silent as to whether a pre-sintered braze sheet having no binder is used as a brazing product.

However, Van Esch, which deals with a method of applying braze to a substrate, teaches that pre-sintering braze products reduces the need for binder and/or adhesive and produces a better braze. Col. 1, Lines 60-65. Additionally, Rafferty teaches that a pre-sintered braze sheet (preform) is a highly effective technique that can be used to braze a product. Col. 1, Lines 45-50.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to use a pre-sintered braze sheet because Van Esch teaches that pre-sintering eliminates the need for binder and produces a better braze and Rafferty teaches that a preform, which can be a sheet, is a highly effective brazing technique.

(7)

Claims 1-2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491) in view of Schnell et al (U.S. Publication No. 2003/0066177).

With respect to **claim 1**, Budinger teaches a braze alloy that consists essentially of, by weight, 4 to 18.5 % Co, 4.5 to 14 % Cr, 3 to 6.2 % Al, 0 to 5 % Ti, 0 to 4 % Mb, 3.8 to 13.7 % Ta, 4 to 11 % W, 0 to 0.5 % Nb, 0 to 12 % Re, 0 to 1.55 % Hf, 0 to 0.3 %

Art Unit: 1795

Y and boron and silicon as incidental impurities. Claim 1. When the composition does not contain titanium, molybdenum, niobium, rhenium or hafnium, the claimed composition overlaps with the ranges of the presently claimed braze alloy except for the presence of boron. As per the MPEP, "where the claimed ranges overlap or lie inside the ranges disclosed by the prior art, a *prima facie* case of obviousness exists." MPEP 2144.05(I) (internal quotation omitted).

Additionally, Schnell, which deals with brazing alloys, teaches that approximately 2.5 wt % boron can be added to a braze alloy as a favorable amount of a melting point depressant. Paragraph 43.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to add boron to the braze alloy taught by Budinger because Schnell teaches that doing so can depress the melting point of the braze alloy. Paragraph 43. Specifically, a person having ordinary skill in the art at the time of invention would have appreciated that the high-melt alloy taught by Budinger could be turned into an effective low-melt alloy via the addition of boron, as explained by Budinger.

With respect to **claim 2**, Budinger and Schnell, as combined above, teach that the braze alloy is used for brazing nickel-based articles wherein the article can be a single crystal alloy. Budinger, Col. 1, Lines 38-43 and Schnell, Paragraph 22.

With respect to claim 5, Schnell teaches that the single crystal article can be a gas turbine component. Paragraph 22.

Page 12

Application/Control Number: 10/597,010

Art Unit: 1795

(8)

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491) and Schnell et al (U.S. Publication No. 2003/0066177), as applied to claims 1, 2 and 5 above, and further in view of Stern (U.S. Patent No. 4,507,264).

With respect to **claim 6**, Budinger and Schnell, as combined above, teach a braze alloy with the required composition but are silent as to whether the braze alloy is in the form of a paste, foil, an ingredient in a blend braze paste, tape or pre-sintered sheet

However, Stern, which deals with brazing methods, teaches a method of brazing that includes applying the braze alloy in a paste form to a super alloy joint, heating the joint to the brazing temperature in a vacuum furnace, followed by a post-braze heat treatment. Col. 6, Lines 1-8.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to use the braze alloy taught by Budinger and Schnell, as combined above, in paste form because Stern teaches that a braze alloy paste can be effectively used to braze an article. Col.6 Lines 1-8.

With respect to **claim 10**, Stern teaches that the braze alloy, in paste form, is applied to a super-alloy article joint and the joint is heated to the brazing temperature in a vacuum furnace, followed by a post-braze heat treatment. Col. 6, Lines 1-8. Stern does not state that the braze paste is mixed with any other additive. Additionally, Stern teaches that the braze temperature can be as high as 2150° C. Claim 3. Stern teaches

Art Unit: 1795

that the braze alloy is particularly suitable for brazing nickel-based super-alloy articles.

Col. 2. Line 1.

(9)

Claims 7, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491) and Schnell et al (U.S. Publication No. 2003/0066177), as applied to claims 1, 2 and 5 above, and further in view of Stern (U.S. Patent No. 4,507,264) and Schaefer et al. (U.S. Patent No. 5,806,751).

With respect to claim 7, Budinger and Schnell, as combined above, teach a braze alloy meeting the compositional requirements of the claim but are silent as to the physical configuration of the alloy and whether it comprises a filler material.

However, Schaefer, which deals with methods of repairing gas turbine components, teaches that it is difficult to use a brazing alloy, absent a filler material, to braze large defects in gas turbine components. Col. 1, Lines 32-35. Schaefer teaches that it is known in the art to use metallic alloy filler with a braze alloy to affect the repair of large defects. Col. 1, Lines 42-43. The metallic alloy filler has a composition similar to the material the metallic alloy article that is being repaired, which in this case is a nickel or cobalt based super-alloy. Col. 2, Lines 20-21.

Additionally, with respect to the physical configuration of the braze alloy, Stern teaches that the braze alloy, when in paste form, can be effectively used to braze superalloy articles. Col. 6, Lines 1-8.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to use a braze paste and combine it with a filler consisting of

Art Unit: 1795

cobalt or nickel super-alloy because Schaefer teaches that metallic filler, with a composition substantially similar to the article to be brazed, can be combined with a braze alloy to form a braze product and that such a braze product can more effectively repair large defects in nickel or cobalt-based super-alloy articles. Additionally, Stern teaches that braze pastes can be effectively used to braze, i.e. repair super-alloy articles.

With respect to **claim 8**, Schaefer teaches that the braze alloy, the second metallic filler material, is between 0 to 40 wt% of the entire braze product. Col. 2, Lines 31-37. This range completely covers the claimed range of 0 to 30 wt%. Where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Woodruff*, 919 F.2d 1575 (Fed. Cir. 1990).

With respect to claim 11, Budinger, Schnell, Stern and Schaefer, as combined above, teach that the braze product, which is a braze paste and a metallic filler wherein the metallic filler has the same composition of the article to be brazed, can be used to braze a nickel or cobalt-based super-alloy article, such as a gas turbine component. Schaefer, Col. 1, Lines 11-42.

(10)

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budinger et al. (U.S. Patent No. 5,240,491), Schnell et al (U.S. Publication No. 2003/0066177), Stern (U.S. Patent No. 4,507,264) and Schaefer et al. (U.S. Patent No. 5,806,751), as applied to claims 7, 8 and 11 above, and further in view of Van Esch (U.S. Patent No. 6,575,349) and Rafferty (U.S. Patent No. 6,612,480).

Art Unit: 1795

With respect to **claim 9**, Budinger, Schnell, Stern and Schaefer, as combined above, are silent as to whether a pre-sintered braze sheet having no binder is used as a brazing product.

However, Van Esch, which deals with a method of applying braze to a substrate, teaches that pre-sintering braze products reduces the need for binder and/or adhesive and produces a better braze. Col. 1, Lines 60-65. Additionally, Rafferty teaches that a pre-sintered braze sheet (preform) is a highly effective technique that can be used to braze a product. Col. 1, Lines 45-50.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to use a pre-sintered braze sheet because Van Esch teaches that pre-sintering eliminates the need for binder and produces a better braze and Rafferty teaches that a preform, which can be a sheet, is a highly effective brazing technique.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1795

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIS. MEKHLIN whose telephone number is (571)270-7597. The examiner can normally be reached on 5/4/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer K. Michener can be reached on 571-272-1424. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ELI S MEKHLIN/ Examiner, Art Unit 1795 /Jennifer K. Michener/ Supervisory Patent Examiner, Art Unit 1795